

Recommendation Report for Lawful Development Certificate for an Existing Use or Operation or Activity including those in breach of a planning condition.

REF NO: AW/277/19/CLE

LOCATION: 16 Selsey Avenue
Aldwick
PO21 2QZ

PROPOSAL: Application for Certificate of Lawfulness for an Existing Use - Existing three storey dwelling use in multiple occupation with 7 bedrooms with shared use ground floor living rooms & kitchen with associate common use gardens & parking bays

DESCRIPTION OF APPLICATION

The application seeks a certificate of lawfulness for the existing use of a property as a house of multiple occupation.

SITE AND SURROUNDINGS

The site is occupied by a three storey detached dwelling. The area is predominately residential.

RELEVANT SITE HISTORY

AW/322/07/	Extend & convert existing house into three, two bedroom self contained flats with associated amenity space.	ApproveConditionally 06-02-08
AW/48/06/	Erection of 4 x 2 bed 2 1/2 storey flats together with associated external works (Resubmission following AW/297/05)	Refused 12-04-06
AW/297/05/	Erection of 4 No. 2 bed flats (2 1/2 storeys high) together with associated external works	Refused 15-02-06 Appeal: Allowed+Conditions 23-06-06
AW/189/05/	Demolition of existing buildings & residential comprising 7 apartments, 9 parking spaces and services	Refused 23-11-05 Appeal: Allowed+Conditions 23-06-06
AW/127/05/	Outline application for the erection of detached house,	Withdrawn

Site history noted.

REPRESENTATIONS

Representations Received:

Aldwick Parish Council

Objection -

Members strongly object on the grounds that conflicting statements in the documentation do not correspond with plans.

No representation received from nearby occupiers.

Comments on Representations Received:

Comments noted. It is not clear where there are conflicting statements. The application is determined having regard only to the evidence and not planning policy.

CONSULTATIONS

Consultations Responses Received:

None

Comments on Consultation Responses:

None

LEGISLATIVE BACKGROUND

Section 192(2) of the Town and Country Planning Act 1990 states:-

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

Section 191 to 195 Town & Country Planning Act 1990 and NPPG guidance on LDC's have the effect of requiring these applications to be determined having regard only to the evidence adduced and not planning policy.

- (i) What is judged on a balance of probability;
- (ii) The onus of proof is on the applicant (and not the LPA) to adduce the evidence; and
- (iii) The LPA may have on its files relevant evidence either supporting or contradicting that of the applicant.

Section S171(1)-(3) and S191 TCPA 1990. The change of use to a house of multiple occupation is 10 years.

CONCLUSION

The evidence submitted in support of the application consists of the HMO licences from 2009-2014 and from 2014-2019.

It is considered that on the balance of probability, with the LPA having no evidence itself, nor any from others, to contradict or otherwise make the applicant's version less than probable. There is therefore no good reason to refuse the application.

It is therefore recommended that the certificate is granted in accordance with the following terms.

RECOMMENDATION

APPROVE

The use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged in black on the plan attached to this certificate, was lawful within the meaning of section 191 of the Town & Country Planning Act 1990 by reason that at the date specified above, the property had been in use as a HMO for the period of at least 10 years

FIRST SCHEDULE

Use of the site as a house of multiple occupation as indicated on the plans

- Block and Location Plan - 01**
- Elevations - 03**
- Floor Plans - 02**

SECOND SCHEDULE

16 Selsey Avenue, Bognor Regis, West Sussex, PO21 2QZ

EXTENT OF USE

Use of the site as a 7 bedroom house of multiple occupation.

